

**Before the
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Washington, D.C. 20540**

In re: Digital Performance)	Docket No. 2001-2 CARP
Right in Sound Recordings)	DTNSRA and Docket No.
Rate Adjustment Proceedings)	2001-1 CARP DSTRA 2

MOTION TO WITHDRAW

Music Choice, by its attorneys, hereby moves to withdraw its Petition to Consolidate the CARP Proceedings in the two above-captioned proceedings. See Petition to Convene Copyright Arbitration Royalty Panel and to Consolidate Proceedings, filed October 11, 2001.

Music Choice sought to determine rates and terms for its "Backstage Pass" service, which began operating over the Internet in March of 2000. The Copyright Office did not allow this service to be licensed in connection with the ongoing proceeding for eligible non-subscription services. Instead, a six-month voluntary negotiation period was initiated for determining reasonable rates and terms for the public performance of sound recordings by new subscription services. 66 Fed. Reg. 9881 (Feb. 12, 2001).

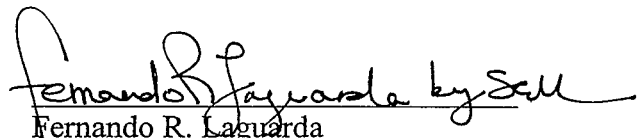
In order to ensure timely licensing of its service offerings and minimize the cost of a new proceeding, Music Choice petitioned the Copyright Office to allow any copyright arbitration royalty panel convened to determine rates for new subscription services be consolidated with the proceeding to set rates and terms for pre-existing subscription services). See Petition to Convene Copyright Arbitration Royalty Panel and To Consolidate Proceedings, filed October 11, 2001. The Copyright Office subsequently published its notice requesting comment as to whether the two rate adjustment proceedings should be consolidated, to which Music Choice now responds. See 66 Fed. Reg. 58180 (Nov. 20, 2001).

Music Choice hereby notifies the Copyright Office that its "Backstage Pass" service will be shut down effective January 2, 2002. As a result, there is no reason to seek a consolidated rate setting process. Moreover, the issue of an appropriate rate for Music Choice's Internet offerings can best be addressed as part of negotiations or an arbitration focusing on pre-existing services. See H.R. Conf. Report 105-796, at 89 (1998) (grandfathering Internet transmissions by pre-existing services). For these reasons, Music Choice asks the Copyright Office to grant the instant Motion to Withdraw.

Respectfully submitted,

MUSIC CHOICE

By:

A handwritten signature in dark ink, appearing to read "Fernando R. Laguarda by S.E.M.", is written over the printed name of Fernando R. Laguarda.

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Dated: December 13, 2001

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GENERAL COUNSEL
OF COPYRIGHT

December 13, 2001

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BY HAND

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Washington, D.C. 20559-6000

Re: Docket No. 2001-2 CARP DTNSRA and Docket No. 2001-1 CARP DSTRA2

Ladies and Gentlemen:

Enclosed please find an original and five copies of Music Choice's Motion to Withdraw its Petition to Consolidate the two above-captioned proceedings.

Please date stamp the enclosed extra copy and return it with the courier as proof of filing. Should you have any questions regarding the foregoing, do not hesitate to contact me at (202) 434-7347.

Sincerely,


Fernando R. Laguarda

Enclosure

cc: Paula Calhoun, Esq.